

MICV2005-01016

FILED
CLERKS OFFICE

MAY 16 P 3:05

U.S. DISTRICT COURT
DISTRICT OF MASS

NICHOLAS KALLIOPE

CA
05-10814
RGS

v.

HOME DEPOT USA, INC

******REMOVED TO US DISTRICT COURT******

**Commonwealth of Massachusetts
SUPERIOR COURT DEPARTMENT
THE TRIAL COURT
CAMBRIDGE**

MICV2005-01016

FILED
CLERKS OFFICE

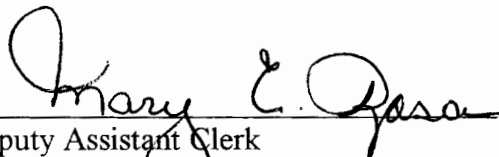
2005 MAY 16 P 3:05

U.S. DISTRICT COURT
DISTRICT OF MASS

I, Mary E. Rosa, Deputy Assistant Clerk of the Superior Court, within and for said County of Middlesex, do certify that the annexed papers are true copies made by photographic process of pleadings entered in the Superior Court on the 25th of March, in the year of our Lord, Two Thousand Five



In testimony whereof, I hereunto set my hand and affix the seal of said Superior Court, at Cambridge, in said County, this 2nd of May, in the year of our Lord, Two Thousand Five


Deputy Assistant Clerk

2

FILED
CLERK'S OFFICE

COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT MIDDLESEX, ss.

2005 MAY 15 P 3:05

U.S. DISTRICT COURT
DISTRICT OF MASS

KALLIOPE NICHOLAS,
Plaintiff,

v.

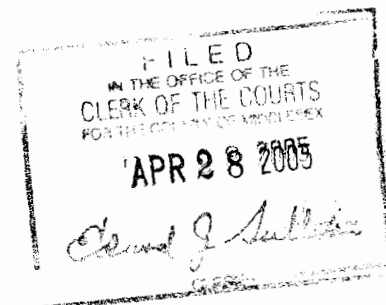
THE HOME DEPOT, INC.
Defendant.

CIVIL ACTION NO.
MICV2005-01016-H

NOTICE OF REMOVAL

TO: J. Michael Conley
Kenney & Conley, P.C.
100 Grandview Road, Suite 218
Post Office Box 9139
Braintree, MA 02185

Office of the Civil Clerk
Middlesex Superior Court
40 Thorndike Street
Cambridge, MA 02141



Please take notice that the defendant, Home Depot USA, Inc. (incorrectly sued as "The Home Depot, Inc.", a non-Massachusetts corporation with its principal place of business in Georgia, has on the 22nd day of April, 2005, filed a Notice of Removal pursuant to 28 U.S.C. sec. 1441 et seq., containing a statement of facts which entitle it to remove the case to the United States District Court, District of Massachusetts.

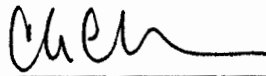
The case is currently pending in the United States District Court, District of

Massachusetts at Boston with a Docket Number 05-10814 RGS (a certified copy of which is attached hereto as Exhibit 1).

HOME DEPOT USA, INC.

By Its Attorneys,

CAMPBELL CAMPBELL EDWARDS & CONROY
PROFESSIONAL CORPORATION



James M. Campbell, BBO # 541882
Brian P. Voke, BBO# 544327
Christopher A. Callanan, BBO # 630649
One Constitution Plaza
Boston, MA 02129
617-241-3000

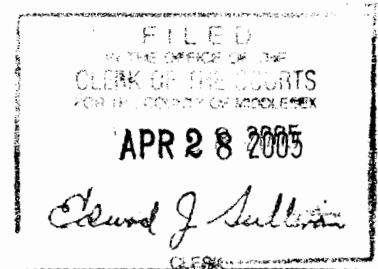
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the following attorney of record by mail on April 27, 2005.

J. Michael Conley
Kenney & Conley, P.C.
100 Grandview Road, Suite 218
Post Office Box 9139
Braintree, MA 02185



Christopher A. Callanan



UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

2005 APR 22 P 4:02

NICHOLAS KALLIOPE
Plaintiff,

v.

HOME DEPOT USA, INC.
Defendant.

05 10814 RGS

CIVIL ACTION

I hereby certify on 4/22/05 that the foregoing document is a true and correct copy of the

☐ electronic docket in the captioned case

☐ electronically filed original filed on

☒ original filed in my office on 5/16/05

Sarah A. Thompson
Clerk U.S. District Court
District of Massachusetts

NOTICE OF REMOVAL By: _____

Deputy Clerk

TO: THE CHIEF JUDGE AND JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

NOW COMES Home Depot USA, Inc., ("Home Depot") and files this Notice of Removal of the above-captioned action from Middlesex Superior Court, Middlesex County, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts. In support of its Notice of Removal, Home Depot states as follows:

1. This is a negligence action brought by Nicholas Kalliope, who alleges personal injury resulting from a trip and fall on rope on the floor of the Watertown, Massachusetts Home Depot store. As a result of Home Depot's alleged negligence, the plaintiff claims that he sustained severe and permanent injuries, has incurred and expects to continue to incur medical expenses and lost wages, and has suffered and expects to continue to suffer great pain of body and mind. (See Exhibit "A," attached, Plaintiff's Complaint and Civil Action Cover Sheet.)
3. The plaintiff is a resident of Belmont, Massachusetts.
4. Home Depot USA, Inc. is a Delaware Corporation with a principal place of business in Georgia.
5. Jurisdiction is founded on diversity of citizenship between the parties pursuant to 28 U.S.C. § 1332.

6. The plaintiff alleges that he sustained a comminuted patella fracture and has incurred medical expenses to date of \$47,853.74 and expects that amount to increase with future treatment. Therefore, Home Depot believes that the amount in controversy, given the plaintiff's alleged damages, reasonably can be expected to \$75,000.

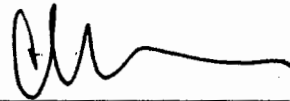
7. This Notice of Removal is being filed within the time period required by 28 U.S.C. § 1446(b).

8. This Notice of Removal was served on counsel of record via regular mail on April 22, 2005

Wherefore, Home Depot prays for removal of the above-captioned matter from Middlesex Superior Court, Middlesex County, to the United States District Court for the District of Massachusetts.

Dated: April 22, 2005

HOME DEPOT USA, INC.
By Its Attorneys,
CAMPBELL CAMPBELL EDWARDS & CONROY
PROFESSIONAL CORPORATION




James M. Campbell, BBO # 541882
Christopher A. Callanan, BBO # 630649
Julie B. Goldman, BBO# BBO# 648489
One Constitution Plaza
Boston, MA 02129
617-241-3000

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the following attorney of record by mail on April 22, 2005.

J. Michael Conley
Kenney & Conley
100 Grandview Road
Braintree, MA 02184



Christopher A. Callanan

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.

05-1016

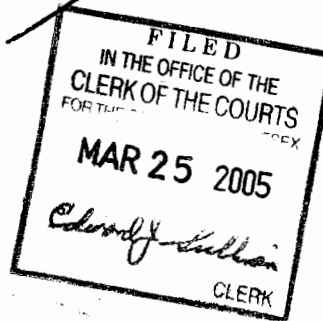
KALLIOPE NICHOLAS,

Plaintiff,

V.

THE HOME DEPOT, INC.,

Defendant.



COMPLAINT AND DEMAND FOR JURY TRIAL

5695E000003/25/05CIVIL	240.00
5695E000003/25/05SUR CHARGE	15.00
5695E000003/25/05SECC	20.00

1. The Plaintiff, Kalliope Nicholas, resides at 64 Channing Road, Belmont, Middlesex County, Commonwealth of Massachusetts.

2. The Defendant, The Home Depot, Inc., is a duly constituted corporation with places of business throughout Eastern Massachusetts, including at a store in Watertown, Massachusetts.

3. On June 13, 2004, the Plaintiff, a customer of the Defendant, tripped and fell over rope on the Defendant's store floor. The Plaintiff's fall was caused by the Defendant's negligence in:

- (a) unsafe placement of rope on its store floor;
- (b) failure to remedy dangerous conditions created by the rope left on its store floor;
- (c) failure to guard or block the hazardous condition represented by the rope left on its store floor;

- (d) failure to warn customers of the hazard presented by the rope left on its store floor; and
- (e) failure to properly train its employees.

4. As a result, the Plaintiff, Kalliope Nicholas, was seriously injured, was prevented from transacting her business, suffered great pain of body and mind, and incurred expense for medical attention and hospitalization.

5. This is an action by Kalliope Nicholas against The Home Depot, Inc. for negligence and/or recklessness resulting in personal injury.

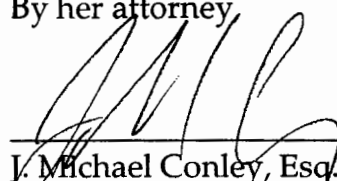
WHEREFORE, the Plaintiff, Kalliope Nicholas, demands judgment against the Defendant, The Home Depot, Inc., in an amount that is fair, together with interest and costs.

PLAINTIFF DEMANDS A TRIAL BY JURY.

Respectfully submitted,

KALLIOPE NICHOLAS,

By her attorney



J. Michael Conley, Esq. (BBO# 094090)

Kenney & Conley, P.C.

100 Grandview Road, Suite 218

Post Office Box 9139

Braintree, Massachusetts 02185

Telephone: 781-848-9891

Dated: March 22, 2005

**CIVIL ACTION
COVER SHEET**

DOCKET NO.(S)

05-1016Trial Court of Massachusetts
Superior Court Department
County: MIDDLESEX

PLAINTIFF(S)

KALLIOPE NICHOLAS

DEFENDANT(S)

THE HOME DEPOT, INC.

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

J. Michael Conley, Esq. (BBO# 094090)
Kenney & Conley, P.C.
100 Grandview Road, Braintree, MA 02184Board of Bar Overseers number: **Tel: 781-848-9891**

ATTORNEY (if known)

Origin code and track designation

Place an x in one box only:

- ☒ 1. F01 Original Complaint
- ☐ 2. F02 Removal to Sup.Ct. C.231,s.104
(Before trial) (F)
- ☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- ☐ 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)
- ☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)
- ☐ 6. E10 Summary Process Appeal (X)

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B04

Other negligence--

personal injury

(F)

(X) Yes

() No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.**TORT CLAIMS**

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses \$ 3,876.62
2. Total Doctor expenses \$ 2,034.00
3. Total chiropractic expenses \$
4. Total physical therapy expenses **rehabilitation** \$ 34,057.00
5. Total other expenses (describe) **ambulance, medical equipment, home care** \$ 7,886.12

Subtotal \$ 47,853.74**B. Documented lost wages and compensation to date****C. Documented property damages to date****D. Reasonably anticipated future medical and hospital expenses****E. Reasonably anticipated lost wages****F. Other documented items of damages (describe)****G. Brief description of plaintiff's injury, including nature and extent of injury (describe)****Comminuted patella fracture****TO EXCEED****\$
TOTAL \$ 47,853.74****CONTRACT CLAIMS**

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."Signature of Attorney of Record DATE: **3/22/2005**

MAS-20041213

gilmanr

Commonwealth of Massachusetts

MIDDLESEX SUPERIOR COURT

Case Summary

Civil Docket

05/02/2005

02:01 PM

MICV2005-01016
Nicholas v Home Depot U.S.A., Inc.

File Date	03/25/2005	Status	Disposed: transfered to other court (dtrans)	
Status Date	04/28/2005	Session	H - Cv H (8A Cambridge)	
Origin	1	Case Type	B04 - Other negligence/pers injury/pro	
Lead Case		Track	F	

Service	06/23/2005	Answer	08/22/2005	Rule12/19/20	08/22/2005
Rule 15	08/22/2005	Discovery	01/19/2006	Rule 56	02/18/2006
Final PTC	03/20/2006	Disposition	05/19/2006	Jury Trial	Yes

PARTIES

Plaintiff
Kalliope Nicholas
64 Channing Road
Active 03/25/2005

Defendant
Home Depot U.S.A., Inc.
Service pending 03/25/2005

Private Counsel 094090
J Michael Conley
Kenney & Conley
100 Grandview Road Suite 218
PO Box 9139
Braintree, MA 02185
Phone: 781-848-9891
Fax: 781-843-4216
Active 03/25/2005 Notify

Private Counsel 544327
Brian P Voke
Campbell Campbell Edwards & Conroy
1 Constitution Plaza
3rd floor
Boston, MA 02129
Phone: 617-241-3000
Fax: 617-241-5115
Active 04/28/2005 Notify

Private Counsel 541882
James M Campbell
Campbell Campbell Edwards & Conroy
1 Constitution Plaza
3rd Floor
Boston, MA 02129
Phone: 617-241-3000
Fax: 617-241-5115
Active 04/28/2005 Notify

Private Counsel 630649
Christopher A Callanan
Campbell Campbell Edwards & Conroy
1 Constitution Plaza
Boston, MA 02129
Phone: 617-241-3057
Fax: 617-241-5115
Active 04/28/2005 Notify

ENTRIES

Date	Paper	Text
03/25/2005	1.0	Complaint & civil action cover sheet filed

MAS-20041213
gilmanr

Commonwealth of Massachusetts
MIDDLESEX SUPERIOR COURT
Case Summary
Civil Docket

05/02/2005
02:01 PM

MICV2005-01016
Nicholas v Home Depot U.S.A., Inc.

Date	Paper	Text
03/25/2005		Origin 1, Type B04, Track F.
04/28/2005	2.0	Case REMOVED this date to US District Court of Massachusetts by deft Home Depot USA, Inc
04/28/2005		ABOVE ACTION THIS DAY REMOVED TO US DISTRICT COURT

